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Camcare Health Corporation

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UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

RAMONA ESTRELLA,

Plaintiff,

V.

ERIC KFIR YAHAV, M.D., et al.

Defendants.

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 : HONORABLE
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 : Civil Action No.
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 : **NOTICE OF REMOVAL**
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TO: Michael T. Rooney, Esquire
Celia Ann Rooney, Esquire
ROONEY & ROONEY
1515 Market Street, Suite 1200
Philadelphia, PA 19102
Attorneys for Plaintiff

Paul J. Cosgrove, Esquire
Ulmer & Berne LLP
600 Vine Street, Suite 2800
Cincinnati, OH 45202-2409
Attorney for Defendant Teva Pharmaceuticals USA, Inc.

PLEASE TAKE NOTICE that this case, previously pending in the New Jersey Superior Court, Law Division, Cumberland County, Docket No. L-3331-14, is hereby removed to the United States District Court for the District of New Jersey, pursuant to 42 U.S.C. § 233(c). The United States of America is hereby substituted for removing Defendants Eric Kfir Yahav, M.D. and Camcare Health Corporation (collectively “Federal Defendants”), pursuant to 42 U.S.C. § 233(c) and (g), with respect to all of the claims set forth against those parties in the Complaint. The United States of America, by and through its undersigned attorneys, respectfully state the following in support of the removal of this matter:

1. The Complaint was filed in the New Jersey Superior Court, Law Division, Cumberland County, on or about August 25, 2014. See Exhibit A (State Court Docket). The trial has not yet occurred. See Docket, Ex. A. Service of process has not been effected upon the Federal Defendants in the manner specified in and required under Fed. R. Civ. P. 4(i).
2. Plaintiff has filed this civil action seeking damages from the Federal Defendants for personal injuries she allegedly sustained as the direct and proximate result of the Federal Defendants’ alleged negligence (i.e., medical malpractice). See Exhibit B (Complaint).
3. At all times relevant to this Complaint, the Federal Defendants were deemed employees of the United States pursuant to 42 U.S.C. § 233(g). See Exhibit C (Declaration of Erica Gibson).
4. This action is deemed to be an action against the United States because the Federal Defendants were acting within the scope of employment as employees of the United States pursuant to 28 U.S.C. § 2679(d) and 42 U.S.C. § 233(c). See Exhibit D (Certification of Scope of Employment).

5. Sections 233(a) and (g) of Title 42 of the United States Code, as amended by the Federally Supported Health Centers Assistance Act of 1995 (Public Law 104-73) provide that the Federal Tort Claims Act (“FTCA”) is the exclusive remedy for tort claims against the United States.
6. The United States District Courts have exclusive jurisdiction over tort actions filed against the United States under the FTCA. 28 U.S.C. § 1346(b).
7. Counsel for co-Defendant Teva Pharmaceuticals USA, Inc. has consented to the removal of this matter to federal court.
8. This Notice of Removal will be filed with the Clerk of the New Jersey Superior Court, Law Division, Cumberland County, and will be served on all parties in accordance with 28 U.S.C. § 1446(d). See Exhibit E (Letter to Clerk of New Jersey Superior Court).

PAUL J. FISHMAN
United States Attorney

s/Anne B. Taylor
By: ANNE B. TAYLOR
Assistant U.S. Attorney

Dated: June 23, 2015